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S. R. A.—Insecticide 1

Issued March 16, 1914.

U. S. DEPARTMENT OF AGRICULTURE, INSECTICIDE AND FUNGICIDE BOARD.

J. K. HAYWOOD, *Chairman*; M. B. WAITE, A. L. QUAINANCE, J. A. EMERY.

SERVICE AND REGULATORY ANNOUNCEMENTS.¹

FEBRUARY, 1914.

OPINIONS OF GENERAL INTEREST REGARDING QUESTIONS ARISING UNDER THE INSECTICIDE ACT OF 1910.

Below are given extracts from various letters written by the board to individuals. In view of the fact that these opinions of the board may be of service to others, they are published for the benefit of the whole trade. In these letters only those parts have been published which are of importance. It should be understood that the board is not authorized by the provisions of the Insecticide Act of 1910 to criticize, approve, or suggest labels; so that any advice given in these letters is offered in an advisory capacity as representing the opinion of the board in the light of its present knowledge and in the light of the facts presented by the correspondent.

1. Active and inert ingredients of lime-sulphur solution.

DEAR SIR: * * * Relative to lime-sulphur solution, we are of the opinion that the active ingredients of this preparation are calcium polysulphid and calcium thiosulphate, while the inert ingredients are water and calcium sulphate. We therefore suggest either of the following as satisfactory statements for the face of the principal label:

Active ingredients:	Per cent.
Calcium polysulphid.....	_____
Calcium thiosulphate.....	_____
Inert ingredients.....	_____

or

Inert ingredients:	
Water.....	_____
Calcium sulphate.....	_____

* * * * *

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

¹ In conformity with memorandum No. 57 of the Acting Secretary of Agriculture, dated December 26, 1913, prescribing a uniform plan for the publication of information bearing on regulatory matters of the Department of Agriculture, this publication will be issued monthly, or less frequently, as occasion may warrant, by the Insecticide and Fungicide Board. Heretofore, announcement to the public of notices of court judgments and official decisions under the Insecticide Act of 1910, and opinions of the Board relating to the application of the law to specific points, have been in the form of single printed sheets, or in the form of letters to individuals. Under the new plan, they will all be published in these service and regulatory announcements of the Insecticide and Fungicide Board.

Free distribution will be limited to firms, establishments, and journals especially concerned. Others desiring copies may obtain them from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 5 cents each or 50 cents a year.

2. Labeling caustic soda lye.

GENTLEMEN: * * * The product should be labeled in accordance with the provisions of the Insecticide Act of 1910. We are enclosing herewith Circular 34, Office of the Secretary, which contains a copy of the above mentioned act, together with certain regulations used in enforcing the same. We especially call your attention to section 8 of the act and regulation 16 for information relative to the ingredients required to be stated on the face of the principal label.

In caustic soda lye we are of opinion that the sodium hydroxid and sodium carbonate are active, while the sodium sulphate, sodium chlorid, etc., are inert. We therefore suggest the following as the most feasible form of statement:

Active ingredients:	Per cent.
Sodium hydroxid.....	_____
Sodium carbonate.....	_____
Inert ingredients.....	_____

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

3. Labeling mixture of Paris green, plaster of Paris, sand, and calcium carbonate.

GENTLEMEN: * * * Section 8 of the act is specific in requiring a statement on the face of the principal label of the correct names and the percentage amounts of each and every inert ingredient and the fact that they are inert, or, in lieu of this, a statement of the correct names and percentage amounts of each and every active ingredient and the total percentage of the inert ingredients. The same section of the law requires in addition to the above for insecticides and fungicides containing arsenic (other than Paris green and lead arsenate) a statement of the total arsenic (expressed as percentum of metallic arsenic) and the arsenic in water-soluble forms (expressed as percentum of metallic arsenic). If your product consists of Paris green, plaster of Paris, sand, and calcium carbonate, we suggest the following form of statement:

Active ingredient:	Per cent.
Paris green.....	_____
Inert ingredients.....	_____
Total arsenic (expressed as percentum of metallic arsenic) ..	_____
Arsenic in water-soluble forms (expressed as percentum of metallic arsenic) ..	_____

* * * * *

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

4. Active and inert ingredients of a chicken-louse powder composed of naphthalene, tobacco dust, partially air-slaked dolomitic lime, and a ferruginous mineral matter (ocher or ferruginous sand).

DEAR SIR: * * * Section 8 of the Insecticide Act of 1910 is specific in requiring a statement on the face of the principal label of the correct names and the percentage amounts of each and every inert ingredient and the fact that they are inert, or, in lieu of this, a statement of the correct names and the percentage amounts of each and every active ingredient and the total percentage of inert ingredients. In our analysis of this product we found naphthalene, tobacco dust, partially air-slaked dolomitic lime, and a ferruginous mineral material, probably either ocher or ferruginous sand. In such a mixture as the above, we are of the opinion that the naphthalene and the nicotine of the tobacco are active, while the tobacco tissue other than nicotine, the sand and dirt, and any inert denaturing substances in the tobacco used, the lime itself,

and the various impurities in same, such as magnesium oxid, magnesium carbonate, silica, etc., and the ferruginous mineral matter, are inert. We therefore suggest the following form of statement on the face of the principal label for a mixture of the above composition :

Active ingredients:	Per cent.
Nicotine-----	-----
Naphthalene-----	-----
Inert ingredients-----	-----

We are of the opinion that a statement of the names and percentage amounts of each and every inert ingredient in a mixture of this kind is not feasible, for the reason that different lots of commercial tobacco vary to such a marked extent in sand, dirt, and denaturing substances, and different lots of commercial lime vary so much in magnesium oxid, magnesium carbonate, calcium carbonate, calcium oxide, silica, etc., that it is practically impossible to adopt one statement that can be used on the various lots of goods. * * *

We may add that the label should be carefully gone over and any statements which are false or misleading in any particular should be removed. * * *

Respectfully,
J. K. HAYWOOD,
Chairman, Insecticide and Fungicide Board.

5. Active and inert ingredients of a chicken-louse powder composed of sulphur, naphthalene, air-slaked lime, talc, and tobacco dust.

DEAR SIR: * * * If the product is composed of sulphur, naphthalene, air-slaked lime, talc, and tobacco dust, then the sulphur, naphthalene, and nicotine of the tobacco dust are active, while the air-slaked lime, the various impurities in the lime, the talc, the various impurities in the talc, the tobacco other than nicotine, and the sand and dirt, together with any denaturing substances in the tobacco used, are inert. We suggest the following form of statement on the face of the principal label :

Active ingredients:	Per cent.
Sulphur-----	-----
Naphthalene-----	-----
Nicotine-----	-----
Inert ingredients-----	-----

You of course have the alternative of stating the names and the percentage amounts of *each* and *every* inert ingredient and the fact that they are inert; however, this is not a feasible form of statement for mixtures of this kind, since it requires not only names and percentage amounts of the materials added by you, but also the names and the percentage amounts of the various impurities in these materials, such as ferric oxid and alumina and magnesium oxid in the lime, alumina and other impurities in the talc, and sand and dirt, which are practically always present in commercial tobacco dust. Since the various impurities mentioned vary to a considerable extent in different batches of the materials, it would be practically impossible for you to adopt a statement, giving the names and the percentage amounts of each and every inert ingredient, that could be applied to all of your goods.

In the statement suggested by you not only do you fail to give the names and percentage amounts of the various inert impurities in the materials used by you, but you list tobacco dust as an inert material. Tobacco dust as a whole is not inert; the nicotine is active, while the tobacco-tissue other than nicotine and any sand, dirt, or denaturing substances in the tobacco dust are inert. * * *

Respectfully,
J. K. HAYWOOD,
Chairman, Insecticide and Fungicide Board.

6. Labeling of a chicken-louse powder composed of naphthalene, tobacco, pyrethrum, and talc.

GENTLEMEN: * * * If this mixture is composed of naphthalene, tobacco, pyrethrum, and talc, then the naphthalene, nicotine of the tobacco, and pyrethrum are active, while the talc, the tobacco other than nicotine, and the sand and dirt in the tobacco, together with any denaturing substances, such as lime, that may be present in the tobacco, are inert. The following form of statement is suggested for your consideration, which, if adopted, should appear on the face of the principal label:

Active ingredients:	Per cent.
Nicotine.....	_____
Naphthalene	_____
Pyrethrum.....	_____
Inert ingredients.....	_____

* * * * *

The following expression is noted on the new label: "For insects and bugs on plants and vines." We are of the opinion that this claim is too comprehensive, since the product would be of no service against certain insects and bugs on plants and vines. It is therefore suggested that the words "insects and bugs" be modified by some such words as "certain" or "some." * * *

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

7. Labeling a chicken-louse powder composed of naphthalene, pyrethrum, tobacco powder, partially air-slaked dolomitic lime, and sand.

DEAR SIR: * * * We also note that all claims relative to disinfectant and antiseptic properties have been satisfactorily removed. However, there are two statements that are still faulty. You say "Generally kills lice * * * as well as bugs and worms on some vines and vegetables." We are of the opinion that this should be changed to read "Generally kills lice * * * as well as some bugs and worms on some vines and vegetables." You also say on your label "To kill ticks part the wool and dust * * * onto the skin." This statement should be removed, since the preparation would not be effective against all ticks. * * *

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

8. Labeling a chicken-louse powder composed of slaked lime, naphthalene, creosote oil, powdered tobacco, talc, and mineral red.

GENTLEMEN: * * * If this preparation consists of slaked lime, naphthalene, creosote oil, powdered tobacco, talc, and mineral red, we are of the opinion that the slaked lime, talc, mineral red, and all the tobacco other than nicotine are inert, while the naphthalene, creosote oil, and nicotine of tobacco are active. As the most feasible form of statement on the face of the principal label of a mixture of this composition, we suggest the following:

Active ingredients:	Per cent.
Nicotine.....	_____
Creosote oil.....	_____
Naphthalene.....	_____
Inert ingredients.....	_____

* * * * *

It is also noted that the new label claims "Designed especially for destroying lice and other vermin on poultry, animals, and plants." * * * We are of the opinion that the expression should read "certain other forms of vermin" rather

than "other vermin," since the expression as it stands is too comprehensive. * * *

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

9. Labeling a chicken-louse powder composed of naphthalene, tobacco, sulphur, talc, and partially air-slaked lime.

GENTLEMEN: * * * We also note on your label for this product that you say "Sure death to lice and other insects on poultry" and "Directions for destroying lice and other insects on poultry." We are of the opinion that this claim and the directions are too broad, since the product will not kill all insects on poultry besides lice. We suggest that the words "other insects" in both of these phrases be modified by some such word as "certain," "some," or "many," according to which word expresses the true facts of the case.

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

10. Labeling a chicken-louse powder composed of tobacco, sulphur, naphthalene, phenols, air-slaked lime, sand, and magnesium silicate.

GENTLEMEN: * * * According to our analysis of your product, it consists essentially of tobacco, sulphur, naphthalene, phenols, air-slaked lime, sand (perhaps added in the tobacco used), and perhaps some magnesium silicate. In a mixture of this kind we are of the opinion that the sulphur, naphthalene, phenols, and nicotine are active, while the tobacco other than nicotine, the air-slaked lime, the sand, and magnesium silicate are inert. We therefore suggest the following form of statement on the face of the principal label:

Active ingredients:	Per cent.
Nicotine -----	-----
Sulphur -----	-----
Naphthalene -----	-----
Phenols -----	-----
Inert ingredients -----	-----

We also note on the label the statement "Excellent for freeing plants and vines of lice and insects." We are of the opinion that the word "insects" should be modified by some such word as "certain" or "many," since the product will not free plants and vines of all insects. Whether or not it will free plants and vines of lice, we are unable to say in the absence of tests; however, you are responsible for the claim.

We also note on the label the statements "For horses, cattle, sheep, dogs, etc.," and "For vines, bushes, garden plants, etc." We are of the opinion that these expressions as they stand are too comprehensive, since they indicate that the product will be of service for any insect that may be present on horses, cattle, sheep, dogs, vines, bushes, garden plants, etc. We suggest that these claims either be removed or that the recommendations be limited to specific insects. * * *

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

11. Active and inert ingredients of Bordeaux mixture paste.

DEAR SIR: * * * While in most cases the board is of the opinion that it is necessary to state definite percentages for active and inert ingredients, we realize that for pastes such a form of statement is very impracticable. Such being the facts, we would not consider that the law was being violated if the following form of statement appeared on Bordeaux mixture paste labels:

Active ingredient:

Per cent.

Copper not less than-----

Inert ingredients not more than-----

It is of course to be understood in the above statement that the figures given will closely approximate the exact percentages present and will not be absurd statements of the ingredients in question.

We are not favorable to a sliding form of statement, i. e., from a certain percentage to a certain percentage, since in selling the goods it is always the tendency of the agent to claim the higher figure for active ingredients and the lower figure for inert ingredients.

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

12. False and misleading statements on Bordeaux mixture label.

GENTLEMEN: * * * On the face of the principal label we note the statement "For blights, rots, scabs, blotches, etc.," and are of the opinion that the abbreviation "etc." should be removed and the words "blights, rots, scabs, blotches" modified by some such word as "some" or "certain," since the product would not be of service against all blights, rots, scabs, and blotches and the abbreviation "etc." is too comprehensive.

Under the directions we note the statement "Apple blotch * * * grape diseases * * * etc., are best controlled by the use of * * *." We are of the opinion that the words "grape diseases" should be modified by some such word as "certain," "some," or "many" and the abbreviation "etc." should be removed, since Bordeaux mixture will not control all grape diseases and the abbreviation "etc." is too comprehensive. We also note the expression "The larger quantity will protect potato, grape, and other fruits" and are of the opinion that the words "other fruits" should be modified by some such word as "some" or "certain," since the statement as it stands indicates that the product is to be used on all fruits in addition to the grape. If it were used on certain fruits, such as peach and Japanese plum, it would cause serious foliage injury. We also note the expression "Use for rots, scabs, and other fungous diseases" and are of the opinion that the words "rots, scabs, and other fungous diseases" should be modified by some such word as "some," "certain," or "many," since the product would not be of service against all rots or scabs nor would it be of service against all other fungous diseases.

On the first panel of the labels submitted, we note the expression "In summer spraying of fruits, it will be the best practice to use with all Bordeaux mixture a large excess of lime to prevent spray injury, * * *." We are of the opinion that this should be changed to read somewhat as follows: "In summer spraying of those fruits on which Bordeaux mixture is applicable, it will be the best practice * * *," and that for the word "prevent" should be substituted some such words as "aid in preventing." As the statement now stands, it indicates that the product is to be used on all fruits, when in fact it should not be used on such tender foliage as that of the peach and Japanese plum. Also the statement should not be made that the addition of lime will prevent spray injury. * * *

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

13. False and misleading statements on Bordeaux mixture label.

GENTLEMEN: * * * We also note on this label the expression "The best remedy known for blight and fungous diseases attacking potatoes, tomatoes, and grapevines; apple, pear, and peach trees; small fruits, shrubs, and vegetables." This statement is too broad in that the preparation will not control

certain blights, such as fire blight of apple and pear, and is not a good remedy for all fungous diseases. Also, if the preparation were used on peach foliage and for early application on the apple, it has been the experience of this Department and others that it will often seriously injure peach foliage and often cause serious russetting of apples, and thus be adulterated under the last paragraph of section 7 of the act. We therefore suggest that the words "blight" and "fungous diseases" be modified by some such word as "some" or "many," that the recommendation for use on peach trees be removed, and that the recommendation for use on the apple be limited to late summer applications. * * * Bordeaux mixture, if used on apple, should be only used for late summer applications where such are necessary to control bitter rot or apple blotch. We therefore suggest that the directions for "apples" state plainly that the preparation is only to be used for such late applications.

Under directions for "Plum," we find "For curculio use No. 2 and No. 3 just before blossoms open and again after they fall." We are of the opinion that this recommendation should be removed, since it is decidedly unsafe to use Bordeaux on Japanese plum foliage and therefore it cannot be safely applied after the trees have leaved out in the spring. Here again the directions are such that if followed the product would probably be adulterated under the last paragraph of section 7 of the act.

Under directions, we find "Peach * * * same treatment as for plum." The same criticism applies to these directions as applies to the directions for "plum." * * *

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

14. Active and inert ingredients of Bordeaux-arsenate of lead compound, and false and misleading statements in label.

GENTLEMEN: * * * We regret to inform you that the statement relative to active and inert ingredients and relative to total arsenic and arsenic in water-soluble forms is not satisfactory. We are of the opinion that in this mixture the lead arsenate, exclusive of its moisture, and copper of the Bordeaux are active, while the remaining ingredients are inert. We are also of the opinion that the total arsenic and arsenic in water-soluble forms should appear in a separate statement from the active and inert ingredients. We therefore suggest the following form of statement on the face of the principal label:

Active ingredients:	Per cent.
Dry lead arsenate.....	_____
Copper of Bordeaux.....	_____
Inert ingredients.....	_____
Total arsenic (expressed as percentum of metallic arsenic)---	_____
Arsenic in water-soluble forms (expressed as percentum of metallic arsenic).....	_____

We note on this label the expression " * * * A combined insecticide and fungicide for use on all vegetation attacked by fungi and leaf-eating insects." This claim is entirely too broad, since the product cannot safely be used on the vegetation of tender plants, such as the peach and Japanese plum, and also since the product is not of service for all fungi and all leaf-eating insects. We therefore suggest that this expression be removed or modified.

We note on this label the expression "This preparation is a stomach poison for all leaf-eating insects and a remedy for fungous diseases." We are of the opinion that the claim is too comprehensive and should be modified by replacing the word "all" by "most" or "many" and modifying the words "fungous diseases" by some such word as "most" or "many."

We note on this label the expressions "For apple and pear * * * against * * * blight, * * * use 1 lb. to 5 gallons of water; spray first before blossoms open and again directly after the petals fall; three weeks later repeat." This direction is subject to the same criticism made in connection with the Bordeaux mixture label, in that Bordeaux mixture should not be used for early applications on apples, since it is likely to cause russetting. Also, the claim for "blight" is too broad, since the most well-known blight of apple and pear is the fire blight, a bacterial disease which cannot be controlled by spraying. We therefore suggest that the directions for "apples" state plainly that the preparation is only to be used for late summer applications and that the word "blight" be modified by some such word as "some" or "certain." * * *

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

15. Active and inert ingredients in dry Bordeaux mixture and Paris green.

GENTLEMEN: * * * If this preparation is dry Bordeaux and Paris green, we are of the opinion that the Paris green and copper of the Bordeaux are active while the remaining ingredients of the Bordeaux are inert. We are also of the opinion that the total arsenic and arsenic in water-soluble forms should appear in a separate statement from the active and inert ingredients. We therefore suggest the following form of statement horizontally on the face of the principal label:

Active ingredients:	Per cent.
Paris green-----	_____
Copper of Bordeaux-----	_____
Inert ingredients-----	_____
Total arsenic (expressed as percentum of metallic arsenic)---	_____
Arsenic in water-soluble forms (expressed as percentum of metallic arsenic)-----	_____
* * * * *	* * * * *

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

16. Active and inert ingredients of hellebore.

GENTLEMEN: * * * On the "Hellebore" label, we note that there is no statement relative to active and inert ingredients. We are of the opinion that in hellebore the only active ingredients are the total alkaloids, while the remainder of the hellebore is inert. We therefore suggest the following form of statement on the face of the principal label, which is in this case the left panel.

Active ingredients:	Per cent.
Total alkaloids-----	_____
Inert ingredients-----	_____

On this label we note the expression "Destroys eating insects on plants, * * *." We are of the opinion that the words "eating insects" should be modified by some such word as "many" or "some." On this same label is a statement "* * * Hellebore is a valuable insecticide and repellant to *all* eating insects, * * *." We are of the opinion that the word "all" should be replaced by some such word as "some" or "many." * * *

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

17. Active and inert ingredients of a roach and ant killer, and false and misleading statements on the label.

GENTLEMEN: * * * Relative to the label for your "Roach and Ant Killer," we beg to inform you that it is not satisfactory to merely say "18% inert materials," but a statement is required on the face of the principal label of the correct names and percentage amounts of each and every inert ingredient and the fact that they are inert, or, in lieu of this, a statement of the correct names and percentage amounts of each and every active ingredient and the total percentage of inert ingredients. * * *

Relative to the expression "destroys cockroaches * * * and other crawling pests" we are of the opinion that the preparation would not kill all "other crawling pests"; hence the claim should be modified or removed. * * *

Under "Directions" on this label, we note in two or three places that the product is recommended for "roaches, ants, and other vermin." We are of the opinion that the words "other vermin" should be modified by some such word as "some" or "certain." * * *

Respectfully,

J. K. HAYWOOD,

Chairman, Insecticide and Fungicide Board.

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NOTICES OF JUDGMENT UNDER THE INSECTICIDE ACT OF 1910.

[Given pursuant to section 4 of the Insecticide Act of 1910.]

73. Misbranding of "Aphiscide." U. S. v. Portland Seed Co. Plea of guilty. Fine, \$25. I. & F. No. 185. Dom. No. 6840.

On October 3, 1913, the United States Attorney for the District of Oregon, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Portland Seed Co., Portland, Oreg., a corporation, alleging the shipment, on May 15, 1912, from Portland, in the State of Oregon, to Vancouver, in the State of Washington, of a quantity of a certain article called "Aphiscide," which was misbranded within the meaning of the Insecticide Act of 1910. The article was contained in cans each labeled and branded, in part, as follows: "Aphiscide. Colorless. Odorless. Easily Applied. * * * Will not injure the most delicate plant. Kills aphids, green fly, thrip and all plant pests. Is the most effective insecticide known. Directions: Spray the infected plants with a plant sprinkler or tin hand-sprayer when insects appear. * * * Quality—Satisfaction—Full Value. Portland Seed Company. Guaranteed. Portland Seed Co. Portland, Oregon."

Analysis and tests of specimens of the article in the United States Department of Agriculture showed that it was composed of approximately 99 per cent water, 0.2 per cent nicotine, and 0.8 per cent total solids, so that it consisted partially of inert substances (substances other than nicotine) which do not prevent, destroy, repel, or mitigate insects, and that it was not effective against all plant pests and was not the most effective insecticide known. Misbranding of the article was alleged in the information in that it was an insecticide and (1) that it was labeled and branded so as to deceive and mislead the purchaser in this, that the label on the packages bore the statement, "Kills aphids, green fly, thrip and all plant pests," whereas, in truth and in fact, the said insecticide was not effective against all plant pests; and (2) that it was labeled and branded so as to deceive and mislead the purchaser in this, that the label on the packages bore the statement, "Is the most effective insecticide known," whereas, in truth and in fact, the said insecticide was not the most effective insecticide known; and (3) in that it was an insecticide other than Paris green and lead arsenate, and it consisted partially of inert substances which do not prevent, destroy, repel, or mitigate insects and the names and percentage amounts of the inert ingredients were not stated on the label on the packages, nor in lieu thereof were the name and percentage amount of each and every ingredient of the insecticide having insecticidal properties and the total percentage of the inert ingredients stated on the labels on the packages.

The cause coming on for trial on October 6, 1913, the defendant, the Portland Seed Co., appeared and entered a plea of guilty and the court imposed a fine of \$25.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

74. Misbranding of "Plaster Paris Green Mixture." U. S. v. Southern Gypsum Co. Plea of guilty. Fine, \$25. I. & F. No. 134. Dom. No. 6914.

On May 24, 1913, the United States Attorney for the Western District of Virginia, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Southern Gypsum Co., North Holston, Va., a corporation, alleging the shipment

and delivery for shipment, on March 8, 1912, from Saltville, in the State of Virginia, to Nashville, in the State of Tennessee, of a quantity of a certain article called "Plaster Paris Green Mixture," which was misbranded within the meaning of the Insecticide Act of 1910. The article was contained in sacks labeled and branded as follows: "10 lbs. Plaster Paris Green Mixture. Manufactured by Southern Gypsum Company, Incorporated. North Holston, Va."

Analysis of specimens of the article in the United States Department of Agriculture showed that it was a mixture of plaster of Paris, Paris green, sand, and calcium carbonate, and that it contained arsenic and contained arsenic in water-soluble forms. Misbranding of the article was alleged in the information in that it was an insecticide and fungicide, and it was labeled or branded so as to deceive or mislead the purchaser thereof, in this, that a pamphlet accompanying the sack containing the article contained a statement that the article was solely a mixture of plaster of Paris and Paris green, which statement was false and misleading because the article was in truth and in fact a mixture of plaster of Paris, Paris green, sand, and calcium carbonate. Misbranding was also alleged in that the article contained an arsenic compound and did not have the total percentage of arsenic present (expressed as per cent of metallic arsenic) stated on the label; and in that the article contained arsenic in water-soluble form and the percentage of arsenic in water-soluble form (expressed as per cent of metallic arsenic) was not stated on the label. Misbranding was alleged, further, in that the article consisted partially of inert substances which do not prevent, destroy, repel, or mitigate insects or fungi, to wit, plaster of Paris, sand, and calcium carbonate, and did not have the names and percentage amounts of each and every one of such inert ingredients stated on the label, nor did the label bear a statement of the names and percentage amounts of each and every ingredient of the insecticide and fungicide having insecticidal or fungicidal properties and the total percentage of inert ingredients present.

The cause coming on for trial on October 7, 1913, the defendant, the Southern Gypsum Co., appeared and entered a plea of guilty and the court imposed a fine of \$25.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

75. Alleged adulteration and misbranding of "Purified Cyanide." U. S. v. Powers-Weightman-Rosengarten Co. Demurrer to information sustained. I. & F. No. 75. Dom. No. 1053.

On April 28, 1913, the United States Attorney for the Southern District of New York, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Powers-Weightman-Rosengarten Co., New York, N. Y., a corporation, alleging the shipment and delivery for shipment, on August 24, 1911, from New York, in the State of New York, through the States of New Jersey and Pennsylvania, to Buffalo, in the State of New York, of a quantity of a certain article called "Purified Cyanide," which was adulterated and misbranded within the meaning of the Insecticide Act of 1910. The article was labeled as follows: "One pound Purified Cyanide 98-99 per cent. Fused. Poison. For technical use only. Powers-Weightman-Rosengarten Co., Philadelphia. Handle carefully. Powers-Weightman-Rosengarten Co. Manufacturing Chemists, Philadelphia."

Analysis of a specimen of the article in the United States Department of Agriculture showed that it did not contain 98-99 per cent of cyanide, but was a mixture of sodium cyanide (74.79 per cent), sodium chloride, and sodium

carbonate, and that it consisted partially of inert substances, namely, sodium chloride and sodium carbonate, which do not prevent, destroy, repel, or mitigate insects or fungi. Adulteration of the article was alleged in the information in that it was an insecticide, and (1) that it was sold under the professed standard and quality of purified cyanide 98-99 per cent, when, as a matter of fact, its strength and purity fell below the said professed standard in that the insecticide was not purified cyanide and did not contain 98-99 per cent cyanide, but it was a mixture which contained only 74.79 per cent sodium cyanide, sodium chloride, and sodium carbonate; and (2) that other substances, to wit, sodium cyanide, sodium chloride, and sodium carbonate were substituted wholly for the article, purified cyanide. Misbranding of the article was alleged in that it was an insecticide, and (1) that the label regarding the article and the ingredients and substances contained therein was false and misleading, in that the article was not purified cyanide and did not contain 98-99 per cent of cyanide, but was a mixture composed of 74.79 per cent of sodium cyanide, sodium chloride, and sodium carbonate; and (2) that the article consisted in part of inert substances, to wit, sodium chloride and sodium carbonate, which do not prevent, destroy, repel, or mitigate insects or fungi, and neither the names nor percentage amounts of each and every one of the said inert ingredients were stated on the label thereof, nor were the correct names and percentage amounts of each and every ingredient having insecticidal and fungicidal properties and the total percentage of inert ingredients present stated on the label thereof.

The defendant demurred to the information on the ground that the information did not allege facts sufficient to constitute a violation of the Insecticide Act of 1910, in that it appeared on the face of the information that the alleged insecticide referred to in the information was shipped from the City of New York to another city in the State of New York, namely, Buffalo, and not from the State of New York to any other State or Territory or the District of Columbia.

On October 8, 1913, the cause coming on for hearing on the demurrer, the court sustained the demurrer in the decision as follows:

The relevant portion of the insecticide statute reads as follows:

"The introduction into any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or from any foreign country, or shipment to any foreign country, of any insecticide, or Paris green, or lead arsenate, or fungicide which is adulterated or misbranded within the meaning of this act is hereby prohibited; and any person who shall ship or deliver for shipment from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, or to any foreign country, or who shall receive in any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or foreign country, and having so received, shall deliver, in original unbroken packages, for pay or otherwise, or offer to deliver, to any other person, any such article so adulterated or misbranded within the meaning of this act, or any person who shall sell or offer for sale in the District of Columbia or any Territory of the United States any such adulterated or misbranded insecticide, or Paris green, or lead arsenate, or fungicide, or export or offer to export the same to any foreign country, shall be guilty of a misdemeanor, and for such offense be fined," etc.

It is clear that under the statute to constitute guilt there must have been an *introduction* into a State, Territory, or the District of Columbia, from "any *other* State or Territory or the District of Columbia" of the misbranded or adulterated insecticide. The second clause of the language quoted declares it a misdemeanor for any person to "ship or deliver for shipment from any State * * * to any *other* State * * * any such article." As I read the statute "introduction" means a bringing into another State of the prohibited article in such a way as that it may become a part of the general property within that State. Mere passing of the goods through other States en route to the State of destina-

tion does not make them part of the general property of those States. *United States v. Four Bottles*, 90 Fed. 720.

My conclusion is that the statute was not meant to cover a shipment by a shipper who sends goods from one point to another point in the same State merely because the shipment is by a route through other States. Whether or not such a shipment is interstate commerce is not directly involved for the reason that the language of the statute does not attempt to cover a case such as we have under consideration. *People v. Abramson*, 208 N. Y. 138. It would also seem that the precise relationship of the carrier to such a shipment is aside from the point necessary for decision. We may assume that Congress could prohibit such a shipment as is involved herein; but it has not done so; hence the cases of *Lehigh Valley v. Pennsylvania*, 145 U. S. 192, and *Ewing v. Leavenworth*, 226 U. S. 464, and *Hanley v. Kansas City Southern*, 127 U. S. 617, have little direct application. The case of *U. S. v. Delaware, Lackawanna & Western*, 152 Fed. 270, was one where the power of Congress was involved with respect to the regulation of the conduct of railroad carriers transporting goods passing through a State en route between two points in another State.

As the indictment fails to show a shipment from one State to another, there is no offense stated. The demurrer is therefore well taken and must be sustained.

B. T. GALLOWAY, *Acting Secretary of Agriculture*.

WASHINGTON, D. C., *January 28, 1914.*

76. Misbranding of "London Purple." *U. S. v. Hemingway's London Purple Co.* Plea of guilty. Sentence suspended. I. & F. No. 84. Dom. No. 1269.

On March 28, 1913, the United States Attorney for the Southern District of New York, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against Hemingway's London Purple Co., New York, N. Y., a corporation, alleging the shipment and delivery for shipment, on September 7, 1911, from New York, in the State of New York, to Dallas, in the State of Texas, of a quantity of a certain article called "London Purple," which was misbranded within the meaning of the Insecticide Act of 1910. The article was labeled or branded in part as follows: "Guaranteed by Hemingway's London Purple Co., Ltd., under the Insecticide Act of 1910, Serial No. 50. London Purple. Hemingway's London Purple Co. Limited, London, England. New York, U. S. A. Poison for the Potato Bug, Cotton Worm & Canker Worm. Analysis. Arsenic-Lime Compounds 70%, Dyestuffs, etc. 30%-100% Contents of combined arsenic calculated as metallic arsenic (Arsenicum (As₂) 20%. Directions. * * *"

Analysis of a specimen of the article in the United States Department of Agriculture showed that it contained arsenic-lime compounds in an amount less than 70 per cent, and that it contained dyestuffs and substances other than arsenic-lime compounds in an amount greater than 30 per cent; that it contained arsenic in water-soluble forms; and that it consisted partially of inert substances, namely, water, iron oxid, magnesium oxid, organic substances, sand, and other insoluble matter, which do not prevent, destroy, repel, or mitigate insects. Misbranding of the article was alleged in the information in that it was an insecticide, and (1) that the statement on the label regarding the substances contained in the article to the effect that the article contained 70 per cent arsenic-lime compounds was false and misleading because the article contained in fact a smaller percentage of arsenic-lime compounds; and that the statement on the label regarding the substances contained in the article to the effect that the percentage of dyestuffs and substances other than arsenic-lime compounds amounted to 30 per cent was false and misleading because the article contained dyestuffs and substances other than arsenic-lime compounds in an amount greater than 30 per cent; and (2) that it contained arsenic and the amount of arsenic in water-soluble forms (expressed as per cent of metallic

arsenic) was not stated on the label; and (3) that it consisted partially of inert substances, to wit, water, iron oxid, magnesium oxid, organic substances, sand, and other insoluble matter, which do not prevent, destroy, repel, or mitigate insects, and neither the names and percentage amounts of each and every one of said inert ingredients nor the names and percentage amounts of each and every ingredient of the insecticide having insecticidal properties and the total percentage of inert ingredients present were stated on the label.

The cause coming on for trial on October 30, 1913, the defendant, Hemingway's London Purple Co., appeared and entered a plea of guilty and the court suspended sentence.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

77. Adulteration and misbranding of Hemingway's lead arsenate. U. S. v. Hemingway's London Purple Co. Plea of guilty. Fine, \$75. I. & F. No. 63. Dom. No. 6660.

On March 28, 1913, the United States Attorney for the Southern District of New York, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against Hemingway's London Purple Co., New York, N. Y., a corporation, alleging the shipment and delivery for shipment, on January 19, 1912, from New York, in the State of New York, to Harrisonburg, in the State of Virginia, of a quantity of a certain article called "Hemingway's Pure Lead Arsenate," which was adulterated and misbranded within the meaning of the Insecticide Act of 1910. The article was labeled or branded in part as follows: "Guaranteed by Hemingway's London Purple Co., Ltd., under the Insecticide Act of 1910. Serial No. 50. Hemingway's Pure Lead Arsenate. New York. London. * * * Analysis: Arsenic oxide 15%, Lead Oxide about 32%, Water 50%, Soluble Arsenic under $\frac{1}{2}$ %. Poison. 25 lbs. Net. Hemingway's Lead Arsenate conforms to the provisions of the Federal law covering the standardization of insecticides. * * *"

Analysis and examination of a specimen of the article in the United States Department of Agriculture showed that it contained more than 50 per cent water, and that the package contained less than 25 pounds of the article. Adulteration of the article was alleged in the information in that it was lead arsenate, and (1) that it contained more than 50 per centum water, and the mixture resulting from the addition of the extra water was not labeled as lead arsenate and water, nor was the percentage of extra water plainly and correctly stated on the label; and (2) that a substance other than lead arsenate, to wit, water, had been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality and strength. Misbranding of the article was alleged in that it was lead arsenate, and (1) that the statement on the label that the article contained 50 per cent water was false and misleading because the article in fact contained more than 50 per cent water; and (2) that the statement on the label that the package contained 25 pounds net was false and misleading because there was in fact less than 25 pounds net of lead arsenate contained therein; and (3) that the statement on the label to the effect that the article conformed to the provisions of the Federal law covering the standardization of insecticides was false and misleading because the article in fact did not conform to the provisions of the Federal law covering the standardization of insecticides.

The cause coming on for trial on October 30, 1913, the defendant, Hemingway's London Purple Co., appeared and entered a plea of guilty and the court imposed a fine of \$75.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

78. Misbranding of "Hemingway's Pure Lead Arsenate." U. S. v. Hemingway's London Purple Co. Plea of guilty. Sentence suspended. I. & F. No. 99. Dom. No. 409.

On March 28, 1913, the United States Attorney for the Southern District of New York, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against Hemingway's London Purple Co., New York, N. Y., a corporation, alleging the shipment and delivery for shipment, on April 2, 1912, from New York, in the State of New York, to St. Joseph, in the State of Missouri, of a quantity of a certain article called "Hemingway's Pure Lead Arsenate," which was misbranded within the meaning of the Insecticide Act of 1910. The article was labeled or branded in part as follows: "Guaranteed by Hemingway's London Purple Co. Ld., under the Insecticide Act of 1910. Serial No. 50. Hemingway's Pure Lead Arsenate. New York. London. * * * Analysis: Arsenic Oxide 15%, Lead Oxide about 32%, Water 50%, Soluble Arsenic under $\frac{1}{2}$ %. * * * 25 lbs. Net."

Examination of a specimen of the article in the United States Department of Agriculture showed that the package contained less than 25 pounds of the article. Misbranding of the article was alleged in the information in that it was lead arsenate, and (1) that it was labeled so as to deceive or mislead the purchaser thereof, in this, that the label indicated that the package contained 25 pounds net of the article, whereas, in truth and in fact, the package contained a less amount, to wit, 22.02 pounds; and (2) that the article was in package form and the contents in terms of weight were not correctly stated on the label, in this, that the label indicated that the package contained 25 pounds net of the article, whereas, in truth and in fact, the package contained less than 25 pounds net and contained only 22.02 pounds net.

The cause coming on for trial on October 30, 1913, the defendant, Hemingway's London Purple Co., appeared and entered a plea of guilty and the court suspended sentence.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

79. Misbranding of "Sure Kill Poison Fly Paper." U. S. v. Frank W. Briggs and William A. Briggs. Plea of guilty. Fine, \$10. I. & F. No. 38. Dom. No. 5756.

On October 22, 1913, the United States Attorney for the Western District of New York, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against Frank W. Briggs and William A. Briggs, doing business under the name of F. W. Briggs & Co., Buffalo, N. Y., alleging the shipment and delivery for shipment, on April 1, 1911, from Buffalo, in the State of New York, to Indianapolis, in the State of Indiana, of a quantity of a certain article called "Sure Kill Poison Fly Paper," which was misbranded within the meaning of the Insecticide Act of 1910. The article was contained in packages each labeled and branded in part as follows: "Sure Kill Poison Fly Paper. Guaranteed by F. W. Briggs & Co., under the Insecticide Act of 1910. This package contains 64.25 grains Arsenic in solution. Guaranteed by F. W. Briggs & Co., under the Insecticide Act of 1910. Serial No. 6881."

Analysis of four packages of the article in the United States Department of Agriculture showed that the article therein contained only 26.8858, 12.1335, 39.2197, and 14.0406 grains of arsenic, respectively, all in water-soluble forms. Misbranding of the article was alleged in the information in that it was an insecticide, and the labels on each of the packages containing the same were false and misleading in that the insecticide in four packages contained, respectively, 26.8858, 12.1335, 39.2197, and 14.0406 grains of arsenic in water-soluble

forms, and not 64.25 grains arsenic in water-soluble forms as stated on the labels.

The cause coming on for trial on November 11, 1913, the defendants, Frank W. Briggs and William A. Briggs, appeared and entered a plea of guilty and the court imposed a fine of \$10.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

80. Misbranding of "Creolium." U. S. v. The Capitol Food Co. Plea of guilty. Fine, \$25 and costs. I. & F. No. 52. Dom. No. 1408.

On April 3, 1913, the United States Attorney for the Northern District of Ohio, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against The Capitol Food Co., Tiffin, Ohio, a corporation, alleging the shipment and delivery for shipment, on August 22, 1911, from Tiffin, in the State of Ohio, to Washington, in the District of Columbia, of a quantity of a certain article called "Creolium," which was misbranded within the meaning of the Insecticide Act of 1910. The article was labeled and branded as follows: "Creolium. The Modern Sanitary Fluid. Disinfectant, Deodorizer, Antiseptic, Germicide, Cleanser. Purifies The Air. Non-Poisonous to Man or Beast. Creolium is a genuine Coal Tar and Creosote Preparation: it is one of the strongest disinfectants known. One gallon mixed with 150 gallons of water makes a strong disinfectant. Guaranteed to please. * * * Manufactured and guaranteed by The Capitol Food Co., Tiffin, Ohio."

Analysis of a specimen of the article in the United States Department of Agriculture showed that it consisted partially of an inert substance, namely, water, which does not prevent, destroy, repel, or mitigate insects or fungi. Misbranding of the article was alleged in the information in that it was an insecticide, and that it consisted partially of an inert substance, to wit, water, which does not prevent, destroy, repel, or mitigate insects or fungi, and the name and percentage amount of each and every ingredient of the article having insecticidal or fungicidal properties and the total percentage of inert ingredients present were stated on the label.

The cause coming on for trial on November 28, 1913, the defendant, The Capitol Food Co., appeared and entered a plea of guilty and the court imposed a fine of \$25 and costs.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

NOTE.—As respects inert ingredients, the Insecticide Act of 1910 requires that there must appear on the label either the name and percentage amount of each inert ingredient or the name and percentage amount of each active ingredient, together with the total percentage of inert ingredients.

81. Misbranding of "Talbot's Scaly Leg Remedy." U. S. v. The W. R. Talbot Chemical Co. Plea of guilty. Fine, \$25 and costs. I. & F. No. 54. Dom. No. 6667.

On April 3, 1913, the United States Attorney for the Northern District of Ohio, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against The W. R. Talbot Chemical Co., Sandusky, Ohio, a corporation, alleging the shipment, on October 23, 1911, from Sandusky, in the State of Ohio, to Washington, in the District of Columbia, of a quantity of a certain article called "Talbot's Scaly Leg Remedy," which was misbranded within the meaning of the Insecticide Act of 1910. The article was contained in packages labeled and branded as follows: "Talbot's Scaly Leg Remedy 50 Cents (Representation of Fowls)

50 Cents For Scabies on Legs and Feet of Chickens, Turkeys and Pet Birds. A combined treatment consisting of an antiseptic soap for preparing a wash, and an ointment. Prepared under the Direction of Mr. Gilbert G. Rosine, B. Sc., Consulting Chemist, and Head of Laboratory, of The W. R. Talbott Chemical Co. Manufactured by The W. R. Talbott Chemical Co. Inc. Sandusky, Ohio."

Analysis of a specimen of the article in the United States Department of Agriculture showed that it consisted partially of an inert substance, namely, water, which does not prevent, destroy, repel, or mitigate insects. Misbranding of the article was alleged in the information in that it was an insecticide, and that it consisted partially of an inert substance, to wit, water, which does not prevent, destroy, repel, or mitigate insects, and neither the name and percentage amount of said inert ingredient nor the names and percentage amounts of each and every ingredient of the insecticide having insecticidal properties and the total percentage of inert ingredients present were stated on the label.

The cause coming on for trial on November 28, 1913, the defendant, The W. R. Talbott Chemical Co., entered a plea of guilty and the court imposed a fine of \$25 and costs.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

82. Adulteration and misbranding of "Rexo Dip." U. S. v. The Tropical Oil Co. Plea of guilty. Fine, \$25 and costs. I. & F. No. 182. Dom. No. 7014.

On November 24, 1913, the United States Attorney for the Northern District of Ohio, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against The Tropical Oil Co., Cleveland, Ohio, a corporation, alleging the shipment and delivery for shipment, on February 22, 1912, from Cleveland, in the State of Ohio, to Grand Junction, in the State of Colorado, of a quantity of a certain article called "Rexo Dip," which was adulterated and misbranded within the meaning of the Insecticide Act of 1910. The article was labeled and branded as follows: "Rexo Dip. Non-Poisonous. A Perfect Dip and Disinfectant for Horses, Cattle, Sheep, Hogs, Goats, Poultry and Household Use. Manufactured by Rexo Disinfectant Co. Cleveland, Ohio, U. S. A. Rexo Dip Will Positively Kill All Nits, Fleas, Lice, Vermin and Parasites of every Description. * * *

A sample of this product has been submitted to the Department of Agriculture for examination. We guarantee the contents of this package to be of the same composition as the sample submitted to the Department, and that when diluted according to the directions printed hereon for the treatment of sheep scab it will give a dipping fluid of the composition required of a coal-tar creosote dip by the regulations of the Secretary of Agriculture governing sheep scab. Directions for Using Rexo. * * * Sheep. * * * Scab. Use Rexo in 1 part Rexo to 73 parts water. * * * Swine. * * * Cholera. Rexo will prevent cholera. Surroundings must be made sanitary, they must be thoroughly disinfected with Rexo. Add 1 part Rexo to 400 parts water in their food. * * *

Analysis of specimens of the article in the United States Department of Agriculture showed that it was not of the same composition as that of a sample submitted by the manufacturer thereof to the United States Department of Agriculture for approval for official dipping of sheep, and that when diluted in the proportion of 1 part to 73 parts water it would not give a dipping fluid of the composition required of a coal-tar creosote dip by the regulations of the Secretary of Agriculture governing sheep scab; that the article was poisonous; that it consisted partially of an inert substance, water, which does not prevent,

destroy, repel, or mitigate insects or fungi; that the article would not kill certain species of vermin and parasites infecting domestic animals; and that the article would not prevent cholera in swine when prepared and applied according to the directions therefor on the label. Adulteration of the article was alleged in the information in that it was an insecticide other than Paris green and lead arsenate and that its strength or purity fell below the professed standard or quality under which it was sold, in this, that the label on the package containing the insecticide bore statements to the effect that a sample had been submitted to the Department of Agriculture for examination and that the contents of the package were guaranteed to be of the same composition as the sample submitted to the Department, and that when diluted in the proportion of 1 part to 73 parts water it would give a dipping fluid of the composition required of a coal-tar creosote dip by the regulations of the Secretary of Agriculture governing sheep scab; whereas, in fact and in truth, the contents of the package were not the same composition as that of the sample submitted to the United States Department of Agriculture, and when diluted in the proportion of 1 part to 73 parts water would not give a dipping fluid of the composition required of a coal-tar creosote dip by the regulations of the Secretary of Agriculture governing sheep scab. Misbranding of the article was alleged in that it was an insecticide, and (1) that the package or label thereof bore statements regarding the article which were false and misleading, and (2) that it was labeled or branded so as to deceive or mislead the purchaser thereof, (a) in this, that the label on the package containing the insecticide bore the statement, "Non-Poisonous," whereas, in fact and in truth, the article was poisonous; (b) in this, that the label on the package containing the insecticide bore statements to the effect that a sample had been submitted to the Department of Agriculture for examination, and that the contents of the package were guaranteed to be of the same composition as the sample submitted to the Department, and that when diluted in the proportion of 1 part to 73 parts water it would give a dipping fluid of the composition required of a coal-tar creosote dip by the regulations of the Secretary of Agriculture governing sheep scab; whereas, in fact and in truth, the contents of the package were not of the same composition as that of the sample submitted to the United States Department of Agriculture, and when diluted in the proportion of 1 part to 73 parts water would not give a dipping fluid of the composition required of a coal-tar creosote dip by the regulations of the Secretary of Agriculture governing sheep scab; (c) in this, that the label on the package containing the insecticide bore a statement to the effect that the article would positively kill all vermin and parasites of every description, whereas, in fact and in truth, it would not kill certain species of vermin and parasites infesting domestic animals; and (d) in this, that the label on the package containing the insecticide bore a statement to the effect that the article would prevent cholera in swine, whereas, in fact and in truth, it would not prevent cholera in swine when prepared and applied according to the directions therefor on the label. Misbranding of the article was alleged further in that it was an insecticide other than Paris green and lead arsenate, and that it consisted partially of an inert substance, to wit, water, which does not prevent, destroy, repel, or mitigate insects or fungi, and the name and percentage amount of said inert ingredient was not stated on the label on the package containing the insecticide, nor, in lieu of the name and percentage amount of the said inert ingredient, were the names and percentage amounts of each and every ingredient of the insecticide having insecticidal or fungicidal properties and the total percentage of the inert ingredient stated on the label on the package containing the insecticide.

The cause coming on for trial on November 29, 1913, the defendant, The Tropical Oil Co., appeared and entered a plea of guilty and the court imposed a fine of \$25 and costs.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

83. Adulteration and misbranding of "Nico-Fume Liquid." U. S. v. Kentucky Tobacco Product Co. Plea of guilty. Fine, \$10 and costs. I. & F. No. 110. Dom. No. 5260.

On September 2, 1913, the United States Attorney for the Western District of Kentucky, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Kentucky Tobacco Product Co., Louisville, Ky., a corporation, alleging the shipment and delivery for shipment, on August 18, 1911, from Louisville, in the State of Kentucky, to Baltimore, in the State of Maryland, of a quantity of a certain article called "Nico-Fume Liquid," which was adulterated and misbranded within the meaning of the Insecticide Act of 1910. The article was contained in pint cans and one-half gallon cans. Each of the pint cans was labeled and branded in part as follows: "Nico-Fume Liquid A nicotine solution Consisting of Free Nicotine blended with Water. Active Ingredients, Nicotine 40% Inert Ingredients, 60% One Pint—Price \$1.50 Original Package guaranteed to weigh not less than $1\frac{1}{8}$ lbs. net, and to contain not less than 2975 Grains of Nicotine." Each of the one-half gallon cans was labeled and branded as set forth for the pint cans, except that the price of same was fixed at \$5.50 per can instead of \$1.50 per pint, and a guarantee as to weight and amount of grains of nicotine contained therein was four times that of the pint cans.

Analysis of specimens of the article in the United States Department of Agriculture showed that it contained considerably less than 40 per cent nicotine, and that it consisted partially of inert substances which do not prevent, destroy, repel, or mitigate insects. Adulteration of the article was alleged in the information in that it was an insecticide and its strength fell below the professed standard of percentage of nicotine under which it was sold, in this, that it did not contain 40 per cent nicotine as stated upon each of the cans and labels, but contained a much less percentage of nicotine than 40 per cent. Misbranding of the article was alleged in that it was an insecticide, and that the labels on the packages containing the insecticide bore a statement which was false and misleading, and that the insecticide was labeled and branded so as to deceive and mislead the purchaser thereof, in this, that the labels on each of the cans containing the insecticide bore a statement that the insecticide contained 40 per cent of nicotine, whereas, in truth and in fact, it did not contain 40 per cent of nicotine but contained much less than 40 per cent of nicotine. Misbranding of the article was alleged further in that it was an insecticide, and that it consisted partially of inert substances which do not prevent, destroy, repel, or mitigate insects, and the labels on the packages did not name and state thereon plainly and correctly the percentage amounts of each and every inert ingredient of the insecticide, and the labels did not state plainly the correct percentage amount of the ingredient of the insecticide, to wit, nicotine, which ingredient has insecticidal properties, and did not correctly state the total percentage of inert ingredients present in the insecticide.

The cause coming on for trial on December 5, 1913, the defendant, the Kentucky Tobacco Product Co., appeared and entered a plea of guilty and the court imposed a fine of \$10 and costs.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

84. Adulteration and misbranding of "Fish Oil Soap." U. S. v. Roberta K. Good. Plea of guilty. Fine, \$20. I. & F. No. 123. Dom. No. 6908.

On November 7, 1913, the United States Attorney for the Eastern District of Pennsylvania, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against Roberta K. Good, Philadelphia, Pa., doing business under the name and style of James Good, alleging the shipment, on February 21, 1912, from Philadelphia, in the State of Pennsylvania, to Nashville, in the State of Tennessee, of a quantity of a certain article called "Fish Oil Soap," which was adulterated and misbranded within the meaning of the Insecticide Act of 1910. The article was contained in packages each labeled and branded, in part, as follows: "One Pound Fish Oil Soap (Commonly called Whale Oil Soap). * * * Guaranteed Analysis: Fish Oil 63 per cent. Actual Caustic Soda 7 per cent. * * *"

Analysis of a specimen of the article in the United States Department of Agriculture showed that it contained less than 63 per cent fish oil. Adulteration of the article was alleged in the information in that it was an insecticide, and that its strength and purity fell below the professed standard or quality under which it was sold, in this, that the insecticide in fact contained less than 63 per cent fish oil. Misbranding of the article was alleged in that it was an insecticide, and that it was labeled and branded so as to deceive or mislead the purchaser thereof, in this, that each of the packages containing the insecticide bore the statement "Guaranteed Analysis: Fish Oil 63 per cent," whereas, in truth and in fact, the insecticide contained less than 63 per cent.

The cause coming on for trial on December 8, 1913, the defendant, Roberta K. Good, appeared and entered a plea of guilty, and the court imposed a fine of \$20.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

85. Misbranding of "Tough-on-Flies." U. S. v. The Crescent Chemical Co. Plea of guilty. Fine, \$50 and costs. I. & F. No. 180. Dom. No. 7202.

On November 7, 1913, the United States Attorney for the Eastern District of Pennsylvania, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against The Crescent Chemical Co., Philadelphia, Pa., a corporation, alleging the shipment, on June 20, 1912, from Philadelphia, in the State of Pennsylvania, to New Orleans, in the State of Louisiana, of a quantity of a certain article contained in cans, each labeled or branded "Tough-on-Flies" and purporting to contain one quart of the article, which was misbranded within the meaning of the Insecticide Act of 1910.

Examination of specimens of the article showed that the cans contained less than one quart of the article. Misbranding of the article was alleged in the information in that it was an insecticide, and (1) that the label on each of the cans containing the same bore the statement, "Tough-on-Flies, per quart can, . . . \$.50," which statement was false and misleading in that it conveyed the thought and meaning that each of the cans contained one quart of the insecticide, whereas, in truth and in fact, each of the cans did not contain one quart of the insecticide, but on the contrary contained less than one quart thereof; and (2) that the label on the outside of each of the cans bore the statement, "Tough-on-Flies, per quart can, . . . \$.50," which statement purported to state the contents of the can in terms of measure, and said statement did not constitute a plain and correct statement of the contents of the cans in measure.

The cause coming on for trial on December 8, 1913, the defendant, The Crescent Chemical Co., appeared and entered a plea of guilty, and the court imposed a fine of \$50 and costs.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

86. Misbranding of B. Howard Smith's "Dead Shot" Cockroach Destroyer. U. S. v. B. Howard Smith. Plea of guilty. Fine, \$5 and costs. I. & F. No. 193. Dom. No. 7201.

On December 6, 1913, the United States Attorney for the Western District of Missouri, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against B. Howard Smith, Kansas City, Mo., alleging the shipment and delivery for shipment, on July 30, 1912, from Kansas City, in the State of Missouri, to New Orleans, in the State of Louisiana, of a quantity of a certain article called "B. Howard Smith's 'Dead Shot' Cockroach Destroyer," which was misbranded within the meaning of the Insecticide Act of 1910. The article was contained in packages labeled and branded in part as follows: "B. Howard Smith's 'Dead Shot' Cockroach Destroyer. * * * Made and put up only by B. Howard Smith, Kansas City, Mo. * * * This powder is manufactured and guaranteed under the Insecticide Act of Congress, of 1910. Smith's Dead Shot Cockroach Destroyer. Never Fails. Price 50¢. Put up by B. Howard Smith, sole proprietor and man'fr. Kansas City, Mo."

Analysis of a specimen of the article in the United States Department of Agriculture showed that it consisted partially of inert substances, namely, corn starch and carbon, which do not prevent, destroy, repel, or mitigate insects. Misbranding of the article was alleged in the information in that it was an insecticide other than Paris green and lead arsenate, and that it consisted partially of inert substances, to wit, corn starch and carbon, which substances do not prevent, destroy, repel, or mitigate insects, and the names and percentage amounts of each and every one of said inert ingredients were not stated on the label on the package containing the insecticide, nor, in lieu of the names and percentage amounts of said inert ingredients, were the names and percentage amounts of each and every ingredient of the insecticide having insecticidal properties and the total percentage of said inert ingredients thereof stated on the label on the package containing the insecticide.

The cause coming on for trial on December 12, 1913, the defendant, B. Howard Smith, appeared and entered a plea of guilty and the court imposed a fine of \$5 and costs.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., January 28, 1914.

87. Adulteration and misbranding of "Kibler's Strictly Pure Arsenate of Lead." U. S. v. Kibler-Lieber Co. Plea of guilty. Fine, \$50 and costs. I. & F. No. 106. Dom. No. 207.

At the November term, 1913, of the District Court of the United States for the District of Indiana, begun and held at Indianapolis, Ind., the grand jurors of the United States within and for said district, acting upon the report of the Secretary of Agriculture, returned an indictment against the Kibler-Lieber Co., Indianapolis, Ind., a corporation, alleging the shipment and delivery for shipment, on April 4, 1912, from Indianapolis, in the State of Indiana, to St. Louis, in the State of Missouri, of a quantity of lead arsenate which was adulterated and misbranded within the meaning of the Insecticide Act of 1910. The article was contained in barrels each labeled and branded in part as follows: "The Kibler Chemical Co., Indianapolis, Ind. Kibler's Strictly Pure Arsenate of Lead. Poison. Manufactured by Kibler Chemical Co. Indianapolis, Ind. Contents of this package is guaranteed to contain not over 50% of water and to contain at least 15% arsenic oxide and not more than 3/4 of 1% of water soluble arsenic oxide, the balance being lead oxide. * * * Arsenate of Lead 600 lbs."

Analysis of a specimen of the article in the United States Department of Agriculture showed that substances, namely, lead arsenite and water-soluble salts other than lead and arsenic compounds, had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength, that the article contained less than 15 per cent arsenic oxide, that it contained water-soluble arsenic oxide in an amount equivalent to more than 0.75 per cent, and that the barrels did not contain 600 pounds of lead arsenate computed on the basis that the article contained not more than 50 per cent water. Adulteration of the article was alleged in the indictment in that it was lead arsenate, and its quality and strength fell below the professed standard and quality under which it was sold.¹ Misbranding of the article was alleged in that it was lead arsenate, and that the statements regarding the article, on the brands and labels on the barrels containing the same, to the effect that the article was "Strictly Pure Arsenate of Lead," and to the effect that it contained at least 15 per cent arsenic oxide and not more than three-fourths of 1 per cent of water-soluble arsenic oxide, and to the effect that each barrel contained 600 pounds net of arsenate of lead on a water basis of not over 50 per cent, were false and misleading, in this, that the article was not strictly pure arsenate of lead, but in truth and in fact was a mixture of arsenate of lead, arsenite of lead, and water-soluble salts exclusive of lead and arsenic compounds; that it in truth and in fact contained less than 15 per cent arsenic oxide; that it in truth and in fact contained more than three-fourths of 1 per cent water-soluble arsenic oxide; and that in truth and in fact the contents of each barrel did not weigh 600 pounds on a water basis of not more than 50 per cent.

The cause coming on for trial on December 16, 1913, the defendant, the Kibler-Lieber Co., appeared and entered a plea of guilty and the court imposed a fine of \$50 and costs.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

88. Misbranding of "Modoc Concentrated Lime Sulphur Solution." U. S. v. The Modoc Co. Plea of nolo contendere. Fine, \$10. I. & F. No. 187. Dom. No. 7367.

On December 3, 1913, the United States Attorney for the Eastern District of Pennsylvania, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against The Modoc Co., Fernwood, Pa., a corporation, alleging the delivery for shipment on December 13, 1912, from Fernwood, in the State of Pennsylvania, to Merchantville, in the State of New Jersey, of a certain article contained in 70 barrels, each labeled or branded "Modoc Concentrated Lime Sulphur Solution," which was misbranded within the meaning of the Insecticide Act of 1910.

Analysis of a specimen of the article in the United States Department of Agriculture showed that it consisted partially of inert substances, namely, water and calcium sulphate, which do not prevent, destroy, repel, or mitigate insects or fungi. Misbranding of the article was alleged in the information in that it was an insecticide and consisted partially of inert substances, to wit, water

¹ The provision of the Insecticide Act of 1910 that an article shall be deemed to be adulterated if its strength or purity fall below the professed standard or quality under which it is sold, applies only "in the case of insecticides or fungicides other than Paris green and lead arsenate." The article in this case being lead arsenate, this provision does not apply, and the United States Attorney inadvertently erred in charging adulteration of the article in this respect. In certifying the case to the United States Attorney, however, adulteration of the article was alleged in that substances, to wit, "lead arsenite and water-soluble salts other than lead and arsenic compounds, had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength."

and calcium sulphate, which inert substances were not calculated or adapted to prevent, destroy, repel, or mitigate insects or fungi, and the names and percentage amounts of the said inert ingredients were not plainly and correctly stated on the label on each of the barrels containing the insecticide, nor, in lieu thereof, were the correct names and percentage amounts of each and every ingredient of the insecticide having insecticidal or fungicidal properties and the total percentage of inert ingredients present stated on the label on each of said barrels.

The cause coming on for trial on December 23, 1913, the defendant, The Modoc Co., appeared and entered a plea of nolo contendere and the court imposed a fine of \$10.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 28, 1914.*

